

RESOLUTION NO. 2018-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA TO CONSOLIDATE AND RENDER SPECIFIED SERVICES TO THE CITY RELATED TO THE CONDUCT OF THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2018, WITH THE STATEWIDE GENERAL ELECTION PURSUANT TO §10403 OF THE ELECTIONS CODE.

WHEREAS, under the provisions of the laws in the State of California, the City Council of the City of Santa Maria called a General Municipal Election to be held on November 6, 2018, for the purpose of the election of a Member of the City Council in District 3, and a Member of the City Council in District 4 for the terms of four (4) years each; and

WHEREAS, the City Council also desires to allow the voters of Santa Maria the opportunity to renew and enhance 2012's Measure U locally-controlled funding by enacting a one (1)-cent Local Transactions and Use Tax (Sales Tax) to remain in effect until ended by voters; and

WHEREAS, in 2012, Santa Maria voters overwhelmingly approved a local funding measure known as Measure U, providing a reliable source of locally-controlled funding that cannot be taken away by the state; and

WHEREAS, Measure U has provided vital funding for essential city services, including gang suppression and crime prevention services, rapid 9-1-1 emergency response, maintaining at-risk youth services, and other city services that protect our local quality of life; and

WHEREAS, over the last few months, City Staff has engaged over a thousand residents at two dozen community events; and

WHEREAS, the overwhelming majority of residents expressed a desire to maintain and extend Measure U's locally-controlled funding; and

WHEREAS, locally-controlled funding is more necessary now than ever to continue to support our local police force and keep gangs out of our city; and

WHEREAS, over the last 25 years, the State has taken more than \$55.2 million from Santa Maria to deal with its own budget problems; and

WHEREAS, this measure will give Santa Maria local control over local funds for local needs. No funds can be taken by Sacramento; and

WHEREAS, every second counts in an emergency, and doctors say the brain starts to deteriorate 5-minutes after a person stops breathing—the City must maintain funding to fully staff its fire stations and protect 911 rapid response times that save lives; and

WHEREAS, the Santa Maria Police Department combats violent gangs, but still needs the tools to keep gangs from resurging; and

WHEREAS, the City must prevent cuts to the number of police officers and firefighters to ensure our local police and fire departments have the resources necessary to keep residents safe; and

WHEREAS, a secure source of local funding is needed to maintain at-risk youth programs, anti-gang outreach coordination, and after-school programs that keep our kids safe, off the streets, and out of trouble; and

WHEREAS, homelessness is a growing problem in Santa Maria and resources are needed to address mental health, substance abuse, and job training needs while ensuring our local businesses and public areas are safe and secure for everyone; and

WHEREAS, expanding local funding will qualify Santa Maria to receive our fair share of millions of dollars in matching grants, so taxpayers don't have to pay the entire cost of critical programs; and

WHEREAS, maintaining library, park, and recreation programs provide necessary alternatives to keep kids out of gangs and reduce crime while maintaining quality of life; and

WHEREAS, any Measure U extension will continue to require an independent taxpayers' oversight committee, mandatory financial audits, and yearly reports to the community to ensure that funds are spent as intended; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General election to be held on the same date and that within the City the precincts, polling places, and election officers of the two elections be the same, and that the County Election Division of the County of Santa Barbara, canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MARIA DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Santa Barbara is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General election on Tuesday, November 6, 2018, for the purposes of the election of one (1) Member of the City Council in District 3, and one (1) Member of the City Council in District 4 for the terms of four (4) years each.

SECTION 2. That a measure is to appear on the ballot as follows:

MEASURE U2018 CITY OF SANTA MARIA PUBLIC SAFETY/ESSENTIAL SERVICES: To maintain/enhance essential services including neighborhood police patrols; firefighter staffing; gang suppression/enforcement; crime/graffiti/vandalism prevention; 911 medical response times; library, recreation, homelessness, at-risk youth programs; providing durable fiscal stability; shall the measure be approved adopting an ordinance extending Measure U at the one cent rate until ended by voters, providing \$18,000,000 annually, with no funds taken by Sacramento, requiring oversight, independent audits, all funds used locally?	YES
	NO

SECTION 3. That the proposed complete text of the measure Ordinance submitted to the voters is attached as Exhibit A.

SECTION 4. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 5. That the County Election Division is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only one (1) form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the Statewide Election.

SECTION 6. That the Board of Supervisors is requested to issue instructions to the County Election Division to take any and all steps necessary as prescribed by §10418 of the Elections Code for the holding of the consolidated election.

SECTION 7. That the County Election Division comply with the provisions of the Voter's Rights Act.

SECTION 8. That the City of Santa Maria recognizes that additional costs will be incurred by the County by reason of this consolidation, and agrees to reimburse the County for any costs.

SECTION 9. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Division of the County of Santa Barbara.

SECTION 10. That the City Clerk shall certify to the passage and adoption of this Resolution, and enter it into the book of original Resolutions.

SECTION 11. The Chief Deputy City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the Chief Deputy City Clerk shall consult with the City Manager and City Attorney concerning any changes deemed necessary.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Santa Maria held on this 3rd day of July 2018.

/s/ ALICE M. PATINO

Mayor

ATTEST:

/s/ RHONDA M. GARIETZ, CMC

Chief Deputy City Clerk

APPROVED AS TO FORM:



City Attorney

EXHIBIT A: Proposed Text of the Measure Ordinance

APPROVED AS TO CONTENT:



Department Director



City Manager

EXHIBIT "A"

FULL TEXT OF MEASURE U2018

AN ORDINANCE OF THE CITY OF SANTA MARIA, CALIFORNIA, REPEALING CHAPTER 3-8A OF TITLE 3 OF THE SANTA MARIA MUNICIPAL CODE AND REPLACING CHAPTER 3-8A IMPOSING A PUBLIC SAFETY AND ESSENTIAL SERVICES TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, in 2012, Santa Maria voters overwhelmingly approved a local funding measure known as Measure U, providing a reliable source of locally-controlled funding that cannot be taken away by the state, and

WHEREAS, Measure U has provided vital funding for essential City services, including gang suppression and crime prevention services, rapid 9-1-1 emergency response, maintaining at-risk youth services, and other City services that protect the City's quality of life; and

WHEREAS, over the last few months, City Staff has engaged over a thousand residents at two-dozen community events; and

WHEREAS, the overwhelming majority of residents expressed a desire to maintain and extend Measure U's locally-controlled funding; and

WHEREAS, locally-controlled funding is more necessary now than ever to continue to support the City's local police force and keep gangs out of the City; and

WHEREAS, over the last 25 years, the State has taken more than \$55.2 million from Santa Maria to deal with its own budget problems; and

WHEREAS, this measure will give Santa Maria local control over local funds for local needs. No funds can be taken by Sacramento; and

WHEREAS, every second counts in an emergency, and doctors say the brain starts to deteriorate 5-minutes after a person stops breathing—the City must maintain funding to fully staff its fire stations and protect 9-1-1 rapid response times that save lives; and

WHEREAS, the Santa Maria Police Department combats violent gangs, but still needs the tools to keep gangs from resurging; and

WHEREAS, the City must prevent cuts to the number of police officers and firefighters to ensure the City's local police and fire departments have the resources necessary to keep residents safe; and

WHEREAS, a secure source of local funding is needed to maintain at-risk youth programs, anti-gang outreach coordination, and after-school programs that keep the City's kids safe, off the streets, and out of trouble; and

WHEREAS, homelessness is a growing problem in Santa Maria and resources are needed to address mental health, substance abuse, and job training needs while ensuring the City's local businesses and public areas are safe and secure for everyone; and

WHEREAS, expanding local funding will qualify Santa Maria to receive its fair share of millions of dollars in matching grants, so taxpayers do not have to pay the entire cost of critical programs; and

WHEREAS, maintaining library and recreation and parks programs provide necessary alternatives to keep kids out of gangs and reduce crime, while maintaining quality of life; and

WHEREAS, any Measure U extension will continue to require an independent taxpayers' oversight committee, mandatory financial audits, and yearly reports to the community to ensure that funds are spent as intended.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTA MARIA, AS FOLLOWS:

SECTION 1. Chapter 3-8A of Title 3 of the Santa Maria Municipal Code is hereby repealed in its entirety and replaced to read as follows:

CHAPTER 3-8A PUBLIC SAFETY AND ESSENTIAL SERVICES TRANSACTIONS AND USE TAX

Section 3-8A.01. Title.

This Chapter shall be known as the "Public Safety and Essential City Services Transactions and Use Tax Code." The City of Santa Maria hereinafter shall be called "City." This Chapter shall be applicable in the incorporated territory of the City.

Section 3-8A.02. Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after adoption of this Chapter, the date of such adoption being July 17, 2018.

Section 3-8A.03. Purpose.

This Chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions and use tax that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(c) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

(d) To adopt a retail transactions and use tax that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this ordinance.

Section 3-8A.04. Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 3-8A.05. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.00% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Chapter.

Section 3-8A.06. Place of Sale.

For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

Section 3-8A.07. Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this Chapter for storage, use or other consumption in said territory at the rate of 1.00% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3-8A.08. Adoption of Provisions of State Law.

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Chapter as though fully set forth herein.

Section 3-8A.09. Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Chapter.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

(B) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 3-8A.10. Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Chapter.

Section 3-8A.11. Exemptions and Exclusions.

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this Section, delivery to a point outside the City shall be satisfied:

(A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to

an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(B) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the leaser is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Chapter.

(5) For the purposes of subparagraphs (3) and (4) of this Section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the use tax imposed by this Chapter, the storage, use or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Chapter.

(5) For the purposes of subparagraphs (3) and (4) of this Section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(d) Any person subject to use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 3-8A.12. Amendments.

All amendments subsequent to the effective date of this Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

Section 3-8A.13. Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 3-8A.14. Citizens Oversight Committee.

The Measure U2012 Citizens' Oversight Committee composed of five (5) residents of Santa Maria, excluding City employees, consultants, or vendors, established by the City Council on September 4, 2012 by Resolution No. 2012-109, to review and report on the revenue and expenditure of funds from the tax adopted by this Chapter, is renamed as "The Measure U Citizens' Oversight Committee."

Section 3-8A.15. Annual Independent Audits.

The City shall ensure that annual independent audits are conducted to account for the tax revenues received and expenditures made in relation to the 1.00% transaction and use tax. Such audits will be provided to the Citizens' Oversight Committee for their review.

Section 3-8A.16. Termination Date.

The authority to levy the tax imposed by this Chapter shall expire when ended by the voters of the City.

SECTION 2. USE OF TAX PROCEEDS. The proceeds of the tax approved by this Ordinance may be used for unrestricted general revenue purposes.

SECTION 3. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 4. ELECTION REQUIRED. This Ordinance shall not become operative unless and until a majority of the electors voting on this measure vote to approve the imposition of the tax at the General Election to be held on November 6, 2018.

SECTION 5. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transaction and use taxes and shall take effect immediately.

SECTION 6. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to § 15601(b)(3) (general rule) and § 15378(b)(4) of the CEQA Guidelines. The transactions and use tax imposed by the adoption of this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. The City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment. Additionally, it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project at the earliest feasible date.

SECTION 7. CLERICAL CORRECTION. The Chief Deputy City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the Chief Deputy City Clerk shall consult with the City Manager and City Attorney concerning any changes deemed necessary.

INTRODUCED at a regular meeting of the City Council held this 3rd day of July, 2018, by the following roll call vote, subject to voter approval at the November 6, 2018, General Municipal Election:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

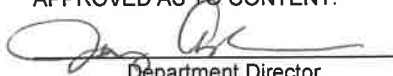
ATTEST:

Chief Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO CONTENT:



Department Director



City Manager

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF SANTA MARIA)

I, **M. Beth Cleary**, Deputy City Clerk of the City of Santa Maria and ex officio Clerk of the City Council **DO HEREBY CERTIFY** that the foregoing is a full, true and correct copy of **Resolution No. 2018-80** which was duly and regularly introduced and adopted by said City Council at a regular meeting held **July 3, 2018**, and carried on the following vote:

AYES: Councilmembers Boysen, Cordero, Moats, Waterfield,
and Mayor Patino.
NOES: None.
ABSENT: None.
ABSTAIN: None.


Deputy City Clerk
City of Santa Maria



